

The Supreme Court of South Carolina
Daniel E. Shearouse, clerk of court
P.O. Box 11380
Columbia, SC 29211

RECEIVED
MAY -9 2016
SC SUPREME COURT

RE: ACKBAR V. STATE, 2015-001052

Dear Clerk of Court

PLEASE find enclosed for filing in your office Petitioner's letter dated May 4, 2016 addressed to David Alexander Esq. of the Appellate Defense a true copy of App. 421, i. and a certificate of service.

Would you please notify Petitioner when the filing is complete. Thank you and good day.

Sincerely
Supreme R. Ackbar
Petitioner.

May 5, 2016

David Alexander, Esq.

Division of Appellate Defense

P.O. Box 11589

Columbia, SC 29211-1589

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MAY -9 2016
SC SUPREME COURT

RE: ACKBAR V. STATE, 2015-001052

Dear Mr Alexander

Petitioner is writing to inform you of another Meritous abuse of discretion by the trial court and Misstatement of evidence by Respondent, the PC2 Court and trial Counsel.

As the record reflect, trial Counsel submitted to being cognizant of some of the witnesses reason for testifying the way they did. App. 65, l. 10-16. See Green v. McElroy, 360 U.S. 474, 496, 79 S.Ct. 1400, 1413, 3 L.Ed 2 1377 (1959). (Exposure of witness Motivation in testifying is proper and important function of constitutionally protected right of cross-examination). See 3AJ, Wigmore, Evidence § 940, P. 775 (Chadborn rev. 1970). (Partiality of a witness is subject to exploration at trial and is always relevant as discrediting witness and affect weight of his/her testimony). See App. 184, l. 7-10. Here the trial court prohibited trial Counsel from revealing possible biases, prejudice or ulterior motives of the witness thus depriving the jury of the benefit to make an inform judgment as to the weight to place Ms Burnside's inconsistent hearsay testimony and thus dismantling Petitioner's Sixth Amendment right to a fair impartial trial by jury while trial Counsel ablated Petitioner's Sixth Amendment right to the effective assistance of counsel in failing to provide a contemporaneous objection to properly preserve this issue for direct review as such the witness testimony is in violation of the hearsay rule which has long been recognized and respected by virtually every state based on experience and grounded in the notion that untrustworthy evidence should not be presented to the triers of fact "because hearsay evidence is without probative value and will not establish fact in issue even in the absence of a timely objection." Feagin v. State, 198 G.2. App. 460, 461 (1), 402 S.E. 2d 80.

During Summations Respondent flagrantly Misstated evidence and trial Counsel submitted to

this assertion. App. 258, l. 18- App. 259, l. 2, 7-8, 12-15, App. 260, l. 1-9, 15-21, App. 261, l. 7-17, App. 262, l. 9-12, App. 268, l. 6-21. See e.g., U.S. v. Smith, 982 F.2d 681, 684 (1st Cir. 1993) (Prosecutor's statement that defendant was guilty improper because implied personal belief rather than government position); See Davis v. Zant, 36 F.3d 1538, 1548 n. 15 (11th Cir. 1994) ("It is a fundamental tenet of law that attorneys may not make material misstatement of fact in summation.") Cf. A.B.A., ABA Standards for Criminal Justice Prosecution Function and Defense Function 3-5.8 (2) (3rd ed. 1993) ("The prosecutor should not intentionally misstate the evidence or mislead the jury as to the inferences it may draw."). A prosecutor's misrepresentation of material evidence can have significant impact on jury deliberations "because a jury generally has confidence that a prosecuting attorney is faithfully observing his obligation as a representative of a sovereignty." Washington, 228 F.3d at 700; See also United States v. Soliven, 937 F.2d 1146, 1150 (6th Cir. 1991) (Because jurors are likely to "place great confidence in the faithful execution of the obligations of a prosecuting attorney, improper insinuations or suggestions [by the prosecutor] are apt to carry [great] weight against a defendant" and therefore more likely to mislead a jury.); United States v. Smith, 500 F.2d 293, 295 (6th Cir. 1974). More importantly, the prosecutor's misrepresentation in petitioner's case held an even greater potential for misleading the jury because the misstated evidence is linked to coercion created by Respondent through Investigator Lorin Williams. App. 421, l. Paragraph 5 and 6, App. 424, l. Paragraph 5 lines 1-4.

As the Supreme Court stated in Berger v. United States:

The United States Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartiality is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor - indeed, he should do so. But while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means

to bring about a just one. Berger, 295 U.S. 78, 88, 55 S.Ct. 629,
79 L.Ed 1314 (1935).

At the PCR hearing trial counsel testified that the first time he heard that Petitioner was not even present at the location of the stabbing was at the PCR hearing. See App. 421, I, Paragraph 12 or the affixed copy of App. 421, I, Paragraph 12, App. 495, I-4.

Petitioner was confronted with Ta's statement. He stated that she was lying. He stated that he hadn't seen Ta, or been on Erby Rd. He stated that he hadn't seen or spoken with Wright, See App. 507, II. 3-8.

Again it is a fundamental tenet of law that attorneys may not make material misstatements of fact... At the PCR hearing trial counsel clearly admitted there were recordings that he never disclosed to Petitioner, however the PCR Court misstated this fact by capitulating that counsel was unable to review the information with Petitioner and that the information was solely phone numbers and times, not the actual messages. App. 424, I, Paragraph 3, App. 484, I, 2-9, App. 493, I, 5-13, App. 517, II, . See Chewing v. Ford Motor Company, 579 S.E. 2d 605. (Extrinsic fraud is "fraud that induces a person not to present a case or deprive a person of the opportunity to be heard." The subornation of perjury by an attorney and/or the intentional concealment of documents by an attorney are actions which constitute extrinsic fraud).

Note: More Misstatements of Trial Counsel and Respondent can be seen at App. 494, I, 5-14, App. 496, I, 13-19, App. 497, I, 17-20, App. 504, II, 5-9, App. 510, II, 14- App. 511, II, 2.

Petitioner aver an abuse of discretion occurs when the trial court's ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support. State v. Harris, 411 S.C. 188, 191 767 S.E. 2d 707, 708 (2015) (citing State v. Black, 400 S.C. 10, 16 732 S.E. 2d 880, 884 (2012)). A failure to exercise discretion amounts to an abuse of that discretion. Id.

(citing Samplas v. Mitchell, 327 S.C. 105, 112 495 S.E. 2d 213, 216 C Ct. App. 1997),

Note: The errors embodied herein are plain and obvious,

Criminal Law Keys 1030 (1) and 1037, 1 (1)

Sincerely

Supreme L. Askbar

May 4, 2016

Inv. Taylor, Foster and Sgt. Wood went with me to 205 Knighton Dr., the residence of Marcus Wright. Upon arrival at the residence I observed the silver Sebring sitting in the driveway. We approached the residence and were met by Wright's mother. Mrs. Wright stated her son was not a home. She stated that she would call him and have him return. Approximately 20 mins. later Wright arrived in a black in color Honda. At the time he was dropped off I was unable to clearly get the tag number off of the car. Wright was approached in the yard and ask him where he had been. Wright was very defensive. He stated that he had gone to the store for his mother and then gone to Greenville to pick up a girlfriend. When I ask Wright if he knew what had happened to Ricky he stated that several people had called his phone. He finally walked away from me and started crying to his mother.

I noticed that there was mud on the tires and on the floor mats of the Sebring. It had been muddy at the crime scene. There was nothing else that was seen at the time we were out with Wright.

Inv. Taylor, Foster and several Patrol Deputies responded to 152 North St. in Wellford. This was the last know address for Ackbar. Upon arrival at the residence it was locked and there didn't appear to be anyone home. We were approached by a Freddy Davis from across the street. Mr. Davis told us he was Ta's grandfather. He stated he could call the landlord of the residence who would bring us a key.

A short time later the landlord arrived and gave us a key to the residence we went into the residence and found no one to be at home.

I spoke with Mr. Davis and ask if he would come to the Sheriff's Office to speak with Ta. He stated that he would and he met us at the Sheriff's Office.

M. HOPE
2013 AUG - 6 PM 3:24
SHERIFF OF SPARTANBURG COUNTY

After Mr. Davis spoke with Ta she stated that she had seen Supreme. Ta told us that she and Supreme had gotten Trac Phones and that he had been calling her to bring him food. Ta gave us a statement. Ta told us that he had brought Supreme to the incident location but didn't see if he had killed Rick.

We continued to look for Ackbar. I found an address for Ackbar's mother in Lauren's County. We contacted Lauren's County Sheriff's Office. They went to the residence, Ackbar was not there.

We returned to the crime scene on 9-21 at approx. 0700. We had county roll back come and tow the truck that Tav had brought Supreme to the crime scene in.

On 9-21 we continued to look for Ackbar. We were trying to locate Wright again.

At approx. 2:00 pm I received a call from the Sheriff's Office, Supreme Ackbar was in the lobby. I returned to the office and got Ackbar. I escorted him to CID. I put Ackbar into an interview room. I read Ackbar Miranda from a pre-interrogation waiver form, which he signed.

???

Ackbar was ask about his day on Sunday, 9-20. He stated that he stayed in the woods in a tent. He stated that he hadn't talked to anyone.

Ackbar was confronted with Ta's statement. He stated that she was lying. He stated that he hadn't seen Ta, or been on Irby Rd. He stated that he hadn't seen or spoken with Wright.

Ackbar was ask to give a written statement about what he had just told me and he ask for an Attorney. He stated he would give a written statement after he got his lawyer.

Ackbar was booked into the county jail on armed robbery warrants. I requested a formal bond hearing.

Note: It was only one armed robbery warrant.

IN THE SUPREME COURT
OF SOUTH CAROLINA

SUPREME R. ACKBAR

PETITIONER

v.

THE STATE OF SOUTH CAROLINA

RESPONDENT

CASE No.: 2015-001652

CERTIFICATE OF SERVICE

I, Supreme R. Ackbar, hereby certify that on the 6th day of May, 2016, I cause a true and correct copy of Petitioner's letter dated May 4th, 2016 in the above captioned matter to be mailed via Lieber mail room with postage prepaid, addressed as follows:

David Alexander, Esq

Division of Appellate Defense

P.O. Box 11589

Columbia, SC 29211-1589

SUPREME R. ACKBAR 215886

A-6-14

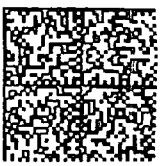
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P.O. Box 205

ROGEEVILLE, SC 29472

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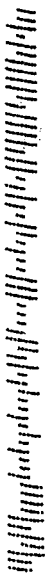
MAY -9 2016

SC SUPREME COURT

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